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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES-GENERAL

SCANNED

Case No.: CV 02-7624 LGB (SHx)

Date: November 17, 2003

Title: Perfect 10, Inc. v. CCBill LLC, et al.

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DOCKET ENTRY

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PRESENT: Hon. Lourdes G. Baird, United States District Judge

Catherine Jeang
Deputy Clerk

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

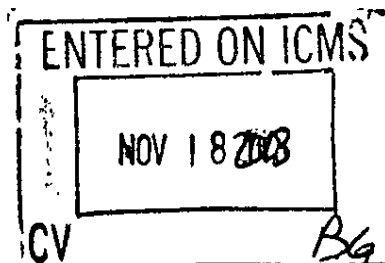
PROCEEDINGS: In Chambers

The Court is in receipt of the parties proposed discovery orders. The Court **ORDERS** as follows:

1. Discovery shall be conducted in phases. Phase I discovery will be limited to the potential application of the DMCA and the CDA to Perfect 10's claims. Specifically, Phase I discovery shall be limited to:

a. DMCA.

- i. Whether the Defendants meet the "conditions for eligibility" for the DMCA safe harbors, 17 U.S.C. § 512(i).
- ii. Whether the Defendants meet the definition of a "service provider," 17 U.S.C. § 512(k).
- iii. Whether the Defendants provided transmission, routing or connections to any material which allegedly infringes copyrights of Perfect 10 (hereinafter "Allegedly Infringing Material") and if so, whether the elements of 17 U.S.C. § 512(a)(1)-(5) are satisfied.
- iv. Whether the Defendants have engaged in the



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intermediate and temporary storage of Allegedly Infringing Material on a system or network controlled or operated by or for the Defendants and whether the elements of 17 U.S.C. § 512(b)(1)(A)-(C) and (b)(2) are satisfied.

- v. Whether Defendants have engaged in the storage at the direction of a user of Allegedly Infringing Material that resides on a system or network controlled or operated by or for the Defendants and whether the elements of 17 U.S.C. § 512(c)(1)-(3) are satisfied.
- vi. Whether the Defendants have referred or linked users to an online location containing Allegedly Infringing Material by using information location tools and whether the elements of 17 U.S.C. § 512(d)(1)-(3) are satisfied.
- vii. Whether any conditions exist that would support a request for injunctive relief under 17 U.S.C. § 512(j).

b. CDA

- i. Whether Defendants meet the definition of a provider or user of an "interactive computer service," 47 U.S.C. § 230(f)(2).
- ii. Whether Defendants, as providers or users of an interactive computer service, are being treated as the publishers or speakers of any information provided by another information content provider, 47 U.S.C. § 230(c)(1).
- iii. Whether Defendants, as providers or users of an interactive computer service, took action voluntarily and in good faith to restrict access to or availability of objectionable materials, 47 U.S.C. § 230(c)(2).

- 2. All discovery other than Phase I discovery is stayed pending further order of the Court.
- 3. Phase I discovery, and the hearings on any motions relative to Phase I discovery, must be completed by January 16, 2003.
- 4. It is the Court's intention that discovery in Phase I be limited to issues listed in § 1, and that, pending

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disposition of the DMCA and CDA issues, the Defendants should be spared the burden and expense of responding to demands that are not focused upon the potential application of the DMCA and the CDA to Perfect 10's claims, such as broadly worded demands for all documents relating to Defendants' financial condition, communications or business operations generally, as well as discovery related to issues not plead in the Complaint.

5. The Defendants will file and personally serve any dispositive motions on the Phase I issues by no later than February 6, 2004.
6. Opposition papers will be filed and personally served on February 27, 2004 and reply papers will be filed and personally served on March 12, 2004.

Deputy Clerk MB

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED
BY FAX DELIVERY ON PLAINTIFF/DEFENDANT (OR PARTIES)
AT THEIR RESPECTIVE MOST RECENT FAX NUMBER OF RECORD
IN THIS ACTION ON THIS DATE.

DATE: 11-17-03

K. Barner
DEPUTY CLERK